

REMARKS

Claims 1-10 are pending in this application. By this Amendment, claims 1-5 and 9 are amended. No new matter is added.

I. Allowed/Allowable Subject Matter

Applicant appreciates the allowance of claim 10, as well as the indication of allowable subject matter in claims 3 and 4, they being allowable if rewritten in independent form to include all of the features of their base claim and any intervening claims. Applicant submits that claims 3 and 4, as well as the additional pending claims, are allowable for the reasons discussed below.

II. Claim Objection

Claim 9 is objected to for containing a typographical error. As the claim is amended in reply to the objection, Applicant respectfully requests the objection to claim 9 be withdrawn.

III. Claim Rejections Under 35 U.S.C. §103

Claims 1, 2 and 5-8 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,486,503 to Fossum in view of U.S. Patent No. 4,974,003 to Ohnuki et al. (Ohnuki), and claim 9 is rejected under 35 U.S.C. §103(a) as unpatentable over Fossum in view of U.S. Patent No. 6,243,136 to Sasaki. The rejections are respectfully traversed.

Applicant asserts that neither Fossum or Ohnuki, whether considered alone or in combination, disclose or suggest each and every feature recited in rejected claims 1, 2 and 5-8, as amended. For example, the combination of references does not disclose or suggest an electronic camera, comprising *inter alia* ... a mirror mechanism wherein said photographing preparations include a mirror down performed by the mirror mechanism, and the photographic preparation device executes at least the mirror down performed by the mirror

mechanism for photographing a next frame during an electrical charge read period at the image capturing device, as recited in independent claims 1 and 9.

The Office Action admits that the applied references fail to teach or reasonably suggest controlling a mirror mechanism to prepare for a second image during an electrical charge read period. As such, Applicant submits that the rejected claims recite allowable subject matter.

Furthermore, the primary reference of Fossum actually teaches away from the use of devices including mechanical operation for a photoelectric conversion. For example, Fossum discloses that such mechanical mechanisms make shuttering imprecise and cause the integration time to vary significantly and that once configured, mechanical-type shutters cannot be easily adjusted (see col. 2, lines 28-33 of Fossum). Thus, there is no suggestion or motivation in Fossum to combine Ohnuki for its teaching of such a mechanical operation. In fact, Fossum specifically provides an electronic shutter due to the alleged problems caused by mechanical shuttering. Applicant submits that it is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983) (See MPEP §2145). Accordingly, Applicant respectfully requests the rejection of claims 1, 2 and 5-8 under 35 U.S.C. §103(a) be withdrawn.

Regarding claim 9, Applicant asserts that the combination of Fossum and Sasaki does not disclose the features of amended claim 9 discussed above. Applicant submits that as the Office Action admits that the applied references fail to teach or reasonably suggest controlling a mirror mechanism to prepare for a second image during an electrical charge, that claim 9 recites allowable subject matter.

Furthermore, neither Fossum or Sasaki disclose or suggest a mirror down mechanism as recited in the amended claim and therefore the combination of references fails to render claim 9 obvious.

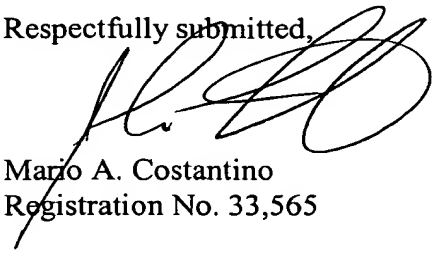
Additionally, the Office Action admits that Fossum fails to specifically disclose that upon detection of a completed readout, another image is captured. To overcome the admitted deficiency the Office Action combines Sasaki and alleges that it is well-known in the art to capture another image after reading out the pixels of a previous exposure. The Office Action then further alleges that the imager of Sasaki would include a mechanism for detecting when the read operation is completed so that the subsequent operation could be performed. However, even though Sasaki does not disclose such a mechanism, even were a mechanism provided for detecting when the operation is completed, Sasaki would still not disclose a photographic preparation device that executes at least a mirror down performed by the mirror mechanism for photographing a next frame during an electrical charge read period at said image capturing device. Accordingly, Applicant respectfully requests the rejection of claim 9 under 35 U.S.C. §103(a) be withdrawn.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:
Petition for Extension of Time

Date: July 15, 2004

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